

SENATE BILL 1041

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CF HB 1064

By: **Senator Lenett**

Introduced and read first time: February 25, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Examiners of Psychologists – Criminal History Records Check**

3 FOR the purpose of requiring applicants for a license to practice psychology to submit
4 to a certain criminal history records check; requiring applicants to submit
5 fingerprints and certain fees to the Criminal Justice Information System
6 Central Repository of the Department of Public Safety and Correctional
7 Services under certain circumstances; requiring the Central Repository to
8 forward certain information to the State Board of Examiners of Psychologists
9 and to certain applicants; providing that certain information is confidential and
10 may be used only for certain purposes; authorizing certain subjects to contest
11 the contents of certain statements; requiring applicants for licensure to submit
12 certain evidence to the Board; requiring the Board to consider certain facts and
13 circumstances in determining whether to grant a license; prohibiting the Board
14 from issuing certain licenses if certain criminal history record information has
15 not been received; authorizing the Board to deny certain applicants a license for
16 failure to submit to a certain criminal history records check; and generally
17 relating to criminal history records checks and the State Board of Examiners of
18 Psychologists.

19 BY repealing and reenacting, with amendments,
20 Article – Health Occupations
21 Section 18–302, 18–303, 18–306, and 18–313
22 Annotated Code of Maryland
23 (2009 Replacement Volume)

24 BY adding to
25 Article – Health Occupations
26 Section 18–302.1
27 Annotated Code of Maryland
28 (2009 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Health Occupations**

4 18–302.

5 (a) To qualify for a license, an applicant shall be an individual who meets the
6 requirements of this section.

7 (b) The applicant shall be of good moral character.

8 (c) The applicant shall be at least 18 years old.

9 (d) The applicant shall have a doctoral degree in psychology as defined in §
10 18–101(c) of this title.

11 (e) Except as otherwise provided in this subtitle, the applicant shall pass an
12 examination given by the Board under this subtitle.

13 (f) The applicant shall have at least 2 years of professional supervised
14 experience in psychology that is approved by the Board in accordance with regulations
15 adopted by the Board.

16 (g) (1) Except as provided in this subsection, an applicant shall reside or
17 practice, or intend to reside or practice, in this State.

18 (2) The Board may issue a license to an applicant who is neither a
19 resident of this State nor practicing in this State if the applicant shows that issuing
20 the license would be in the interest of the citizens or government of this State.

21 **(H) THE APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS**
22 **CHECK IN ACCORDANCE WITH § 18–302.1 OF THIS SUBTITLE.**

23 **18–302.1.**

24 **(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL**
25 **JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT**
26 **OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

27 **(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A**
28 **STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT**
29 **SHALL SUBMIT TO THE CENTRAL REPOSITORY:**

1 **(1) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS TAKEN ON**
2 **FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE**
3 **DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;**

4 **(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE**
5 **CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY**
6 **RECORDS; AND**

7 **(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU**
8 **OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

9 **(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE**
10 **CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD**
11 **TO THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD**
12 **INFORMATION OF THE APPLICANT.**

13 **(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL**
14 **ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN**
15 **ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY**
16 **THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE**
17 **FEDERAL BUREAU OF INVESTIGATION.**

18 **(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER**
19 **THIS SECTION:**

20 **(1) SHALL BE CONFIDENTIAL;**

21 **(2) MAY NOT BE REDISSEMINATED; AND**

22 **(3) SHALL BE USED ONLY FOR THE LICENSING PURPOSE**
23 **AUTHORIZED BY THIS TITLE.**

24 **(F) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER**
25 **THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT**
26 **ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE**
27 **CRIMINAL PROCEDURE ARTICLE.**

28 18-303.

29 To apply for a license **TO PRACTICE PSYCHOLOGY**, an applicant shall:

30 (1) Submit a verified application to the Board on the form that the
31 Board requires; [and]

1 (2) Pay to the Board the application fee set by the Board; AND

2 (3) **SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN**
3 **ACCORDANCE WITH § 18-302.1 OF THIS SUBTITLE.**

4 18-306.

5 (a) The Board shall issue a license to any applicant who meets the
6 requirements of this title.

7 (b) The Board shall include on each license that the Board issues:

8 (1) The full name of the licensed psychologist;

9 (2) The dates of issuance and expiration;

10 (3) A serial number;

11 (4) The signatures of the chairman and the vice chairman of the
12 Board; and

13 (5) The seal of the Board.

14 (c) (1) **ON RECEIPT OF THE CRIMINAL HISTORY RECORD**
15 **INFORMATION OF AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD**
16 **IN ACCORDANCE WITH § 18-302.1 OF THIS SUBTITLE, IN DETERMINING**
17 **WHETHER TO GRANT A LICENSE OR CERTIFICATE, THE BOARD SHALL**
18 **CONSIDER:**

19 (i) **THE AGE AT WHICH THE CRIME WAS COMMITTED;**

20 (ii) **THE CIRCUMSTANCES SURROUNDING THE CRIME;**

21 (iii) **THE LENGTH OF TIME THAT HAS PASSED SINCE THE**
22 **CRIME;**

23 (iv) **SUBSEQUENT WORK HISTORY;**

24 (v) **EMPLOYMENT AND CHARACTER REFERENCES; AND**

25 (vi) **OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE**
26 **APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

1 **(2) THE BOARD MAY NOT ISSUE A LICENSE IF THE CRIMINAL**
2 **HISTORY RECORD INFORMATION REQUIRED UNDER § 18-302.1 OF THIS**
3 **SUBTITLE HAS NOT BEEN RECEIVED.**

4 18-313.

5 Subject to the hearing provisions of § 18-315 of this subtitle, the Board, on the
6 affirmative vote of a majority of its members then serving, may deny a license to any
7 applicant, reprimand any licensee, place any licensee on probation, or suspend or
8 revoke a license of any licensee if the applicant or licensee:

9 (1) Fraudulently or deceptively obtains or attempts to obtain a license
10 for the applicant or licensee or for another;

11 (2) Fraudulently or deceptively uses a license;

12 (3) Is convicted of or pleads guilty or nolo contendere to a felony or a
13 crime involving moral turpitude, whether or not any appeal or other proceeding is
14 pending to have the conviction or plea set aside;

15 (4) Is or has been addicted to any narcotic or habitually intoxicated;

16 (5) Aids or abets an unauthorized person in practicing psychology or
17 representing oneself to be a psychologist;

18 (6) Practices psychology fraudulently or deceitfully;

19 (7) Violates the code of ethics adopted by the Board under § 18-311 of
20 this subtitle;

21 (8) Willfully fails to file or record any report as required under law,
22 willfully impedes or obstructs the filing or recording of the report, or induces another
23 to fail to file or record the report;

24 (9) Submits a false statement to collect a fee;

25 (10) Willfully makes or files a false report or record in the practice of
26 psychology;

27 (11) Is disciplined by a licensing or disciplinary authority of any state
28 or country or convicted or disciplined by a court of any state or country or disciplined
29 by any branch of the United States uniformed services or the United States Veterans
30 Administration for an act that would be grounds for disciplinary action under the
31 Board's disciplinary statutes;

32 (12) Violates any provision of this title or any regulation adopted by the
33 Board;

1 (13) Uses or promotes or causes the use of any misleading, deceiving, or
2 untruthful advertising matter, promotional literature, or testimonial;

3 (14) Is professionally, physically, or mentally incompetent;

4 (15) Promotes the sale of devices, appliances, or goods to a patient so as
5 to exploit the patient for financial gain;

6 (16) Behaves immorally in the practice of psychology;

7 (17) Commits an act of unprofessional conduct in the practice of
8 psychology;

9 (18) Refuses, withholds from, denies, or discriminates against an
10 individual with regard to the provision of professional services for which the licensee is
11 licensed and qualified to render because the individual is HIV positive;

12 (19) Fails to cooperate with a lawful investigation conducted by the
13 Board; [or]

14 (20) Does an act that is inconsistent with generally accepted
15 professional standards in the practice of psychology; **OR**

16 **(21) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK**
17 **IN ACCORDANCE WITH § 18-302.1 OF THIS SUBTITLE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2010.